App. F. IX-4

1925.

File No. 219-25

Previous References (Courts)

Serial Nos. 1-5

PRESERVED

Later References

General and Revenue Secretariat.

Serial Nos. 7 June

Part B for March 1927

SUBJECT

Addendum & corrigendum to the Rules regulating the practice of the Chief Court in the matter of the delegation of the power to the Registrar to extend the time for payment of printing or typing charges of in appeals before the Chief Court.

G.O.No.P. 4838 & 19-3-27. To the Regr. Chief Court

Sanctioned

Manavasamy Iyengar
11-4-27

G. R. S. III—1] 1925-26

GENERAL AND REVENUE SECRETARIAT.

Levits

NOTES.

File No. 219-25

FILE HEADING.

Addendum etc corrigendum to the rules regulating the practice of the chief court in the matter of the delegation of the power to the Registrar to extend the time for payment of printing or typing Charges etc in appeals before the chief court

From

Rec No. 1102 Dated 19-3-26 Received 24-3-26

Diary No. 3700	Enclos. /	Spare Copies.	Serial No. /

BRIEF ABSTRACT OF LETTER.

States that some time is taken by the chief court to consider the question of extending the ~~question~~ time or otherwise in cases where printing charges have not been paid and that the chief court ~~court~~ ~~that~~ consider that if the power be delegated to the Regr of the chief court. the court may withdraw that time to the learning pleaders and requesting sanction to the accompanying addendum etc corrigendum to the Rules regulating the practice of the chief court delegating the power to the Regr chief court with proper safeguards

NOTES AND ORDERS.

It is stated that the Regr cannot pass ~~any~~ final orders such as dismissal which has to be done by the chief court only. Put into a draft sanctioning for orders

25/3/26

L) Please peruse the Madras High Court Rules of Practice. Whether the power can be delegated to the Regr under the chief court Regr is also to be considered.

2/4

NOTES—First Sheet.

WD 1881—GPS—30,000—1-8-21

Serial No.

1) Send with the Madras High Court Rules of Practice - Appellate Side -

4) As regards the delegation of the Power referred to it is stated that the Registrar of the Court has been delegated with the power to admit appeals preferred to the Chief Court provided they disclose arguable points of law - under section 100 Civil Procedure code Hence there seems to be no objection to the power now proposed to be delegated - The words "Registrar" in the amendment is made to include - "Deputy Registrar" Both the posts may be entrusted

Send for orders

Vide Page 4 - Rule 11-2-(a) of the Civil Court Manual

5/4/26

5) I wish to see the rule of the Madras High Court under which the power has been delegated to the Registrar

es 10/4

9/4

Send

3) Under Rule 79 (1) on page 28 of the Madras Appellate side Rules the Registrar of the High Court gives notice to the parties of the amount of the costs for preparing the records, having been translated and printed and the party or parties is at liberty to deposit the amount within 2 days of such notice. This time may be extended by the Registrar for a period not exceeding 10 days - V. de Rule 12 of Rule 12 - Page 10 of the Appellate Side Rules

NOTE—Contn. Sheet

3707

WD 01264—GPB—40,000—17-12-25

General and Revenue Secretariat | C8 File No. 219 | of 1925-26

Serial No.

7) This power of extending the time had been given to the Registrar by the High practice as per section 8 of the Madras High Court Jurisdiction Act - 1865. Vide page 188 of the Madras Appellate Side Rules.

BJ
16/4/26
Adm 17/4
Put

8) The file relating to the delegation of powers to the Registrar, Chief Court has been destroyed. Vide Records certificate (Nag X).

From the file record it is seen that the Rules have been issued under section 122 of the C.P.C

BJ
3/5/26
Adm 3/5

9) The rule proposed by the Chief Court provides for the delegation to the Registrar power for extending the periods of time fixed for printing and typing charges and Process fees or for any similar act necessary to make appeals, petitions etc ready for hearing.

10) The authority for delegating powers to the Registrar is derived from the Regulations viz. Section 8 of the Chief Court Regn and Section 128 (c) of the C.P.C.

11) Under Section 8 of the Chief Court Regn, the Regn can the Chief Court can direct the Regn to exercise such powers.

NOTE—Contn. Sheet

Judl and Revenue Secretariat | 45 File No. 219 of 1925-26

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and discharge such duties of a ministerial nature as the chief Court may from time to time direct.

12) Under Section 128 (1) C.P.C ~~The chief Court may~~ Rules may be framed for delegation to the Registrar of any judicial, quasi judicial and non-judicial duties.

13) The question then is whether the rule proposed is one to be made under the chief Court Regn or the Civil Proc: Code

There is no provision in the C.P.C requiring parties to pay printing and typing charges nor for fixing any time for paying those charges. Then act of fixing time for paying those charges may be considered to be a ministerial act & so this act may be delegated under the ch. ct Regn

14) Next with regard to extending the period fixed for payment of process fees:-

15) In the first place there does not seem to be any rule authorising the Registrar to fix the period for payment of process fees. ~~This~~ power to fix the time for paying process fees is provided under O.48. Rule 1. (2) which says that the Court fee ~~payable~~ chargeable for such service shall be paid within a time to be fixed ~~by the Court~~ before ~~the~~

NOTE—Contn. Sheet

WD 01264—GPB—40,000—17-12-25

Serial No

process is issued.

16) This time is presumably fixed by the Court and this time can be extended by the Court under Section 148 C.P.C. Under Section 148 C.P.C the Court is given the discretion to extend the time.

17) Under Section 128(1) it is only judicial duties that can be delegated and this is therefore a point for consideration whether the exercise of discretion can be called a duty ~~duty is one which can be compelled to do process in and which can be exercised~~

18) ~~Even conceding the~~ But the granting of time for passing process is a power vested in the Registrar of the Madras High Court Rule 7 (page 8) But ~~this~~ his powers was were delegated ~~under~~ not only under the C.P.C but also under the charter Act of 1865 (page 188) under which powers and authorities can be delegated to the ministerial officers

19) Even conceding that such a power as proposed can be delegated to the Registrar it can only be done by a rule made under Sections 122 to 128 of the C.P.C Such a procedure does not seem to have been followed in this case.

20) With regard to "passing similar such necessary to make appeals

NOTE— Contn. Sheet

WD 01264—GPB—40,000—17-12-25

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Serial No

etc., it is submitted that this is too vague to say whether this power or duty, whatever it may be, is to be delegated under the Chief Court Regn or the C.P.C. In order to determine this it seems to be better to specify the acts definitely.

2) Before the rule is sanctioned it seems to be better to clear the doubt by reference to sec 4 ch 2 Ch Reg 4.5

3) The proposed rule is intended to empower Registrar i to extend the time for payment of printing charges & ii to extend the time for payment of process fee.

4 The chief court have proposed to delegate these functions to the Registrar by this rule presumably in exercise of the power of chief court to make rules under sec 20 of the Chief Court Regn.

5 Sec 20 (a) empowers the chief court to confer on its ministerial officers such powers & duties of a ministerial nature'.

6 The question for consideration is whether the power of extending time for payment of printing charges & process fees is purely one of ministerial nature or a judicial one

7 The word 'ministerial' implies an act performed in obedience to the mandate of a legal authority without regard

NOTE—Contn. Sheet

Serial No.

without the exercise of his own judgment upon the propriety of the act done. This [illegible] opposed to judicial.

27 Under Order XLVIII of C.P.C. process fee shall be paid within a time fixed by the Court.

28 Under Sec 148 C.P.C. the Court has discretion to enlarge the time so fixed.

Under O. 48, rule 18, the Court may dismiss the appeal, if, within the time fixed for payment of process fee, the fee is not paid

28 The power to enlarge the time for payment of process fee is conferred in Court under the Civil Procedure Code & the discretion has to be exercised by it judicially & not arbitrarily.

29 It follows from the nature of the power & from the definition of 'ministerial nature', the exercise of this power to enlarge time for payment of court fee for issuing process, is not a ministerial act but a judicial one expressly conferred by the statute on Chief Court.

30 Hence the Chief Court have no power to delegate this duty under its rule making power

31 Again in the proposed rule for any similar act necessary, make appeals' — are used

NOTE—Contn. Sheet

Serial No.

What these 'similar acts' are not defined in the rule. It is not desirable to frame rules containing vague expressions calculated to clothe the authority exercising powers with dangerous & illegal powers.

32 As regards printing charges, these are not authorised by the Code. But the rules in respect of them are, I presume, framed by the Rule Committee. In order to ~~give~~ enlarge time for payment of fees for printing charges, the Rule Committee has to approve this rule

33 If the Chief Court intend to delegate their duties to the Registrar in respect of enlargement of time for payment of fees, they may have to move the Rule Committee to make rules for delegating to the Registrar judicial or quasi judicial duties under cl (c) of sec 128 C.P.C.

34 The Chief Court may perhaps be asked to clear these doubts & to state under what provision of law they have exercised their power to pass the proposed rule.

1st member

208/8.5

35 Drop letter to the Chief Court as suggested & a draft Rule may be prepared for approval

8.5 8/5 8/5 8/5

NOTE—Contn. Sheet

8/5 10/5

WD 01264—GPB—40,000—17-12-25

General and Revenue Secretariat

CS File No. 219 of 1925-26

Serial No.

36) Send into a draft

10/5/26 37) Please type the draft as revised
Atal 11/5
12/5

12/5

38) Send with a typed draft as revised

12/5/26
Atal 12/5
Lhleg)
12th Mar.

13/5
8-13/5

9769/17/5

39) Asst Secy will please bring with the refs quoted
18/5
lee 19/5
19.5

40) Send with a fair draft as directed

Civil Pro Code
&
Mofussil Small Cause Courts Code

16/7/26
Atal 16/7
16/7
Lhleg)

41) Draft is put up after consulted & may be approved
1st Mar.

20/7
20/7

42) Not clear if Govt attended the meeting
lee 24/7

790/22/7

Please submit to Mr Singaravelu
24/7

43) Personally asked to explain
24/7
24/7

explained. The member wants a shorter draft also. Please type the draft as required.
27/7

NOTE—Contn. Sheet

General and Revenue Secretariat | CS File No. 219 | of 1925-26

Serial No.

44
Send into the revised draft typed
Ltd Secy
Ag 27/7
27/7
1st hr
cag 27.7

45 Retype & Submit
Note ~~Note~~ in the
Chief Court in
matters of interest
and always be pursued,
as they are the
people that interest
& not Govt.
I shall be glad if these
always borne in mind
Ag
29/7
cag 28.7
cag 29.7

CS 29/7

46 Send into afais draft as revised
Ag 30/7/26
Ltd Secy
1st hr.
cag 30/7
Ag 30/7
cag 2/8

1319/28

47 Ag
Ag 4/8
cag 4/8

2 R
The Registrar Chief Court
No 669 dt 9-8-26
Requests to indicate the provisions of law
under which they have been framed.
with some addl information

Cus

NOTE—Contn. Sheet

1090

WD 01264—GPB—40,000—17-12-25
App. F. III—2]

General and Revenue Secretariat | C/S File No. 219 of 1925

Serial No. 3

From

The Regr. Chief Court, R.O.C. No 1102 dt. 29/8/26 stating that it is better to frame the rule in questions under Ss. 122 & 128 C.P.C. and that necessary action is being taken and adds that a further report will be made to Govt. in due course. The further report may be awaited. So far for perusal

Sec 30/8/26 — Dy Secy — Secy 30/8

51 The Chief Court have now considered the position taken (vide para 33 supra) & have agreed to take steps to frame a rule under Sec 122 & 128 C.P.C.

52 The further report may be awaited

1st Member. 53

25/8/26 — Butler (moving floor with Chairman alone). The final Conclusions to be C.C.

1.9. — 1.9. — Secy 1.9

2/9 — Secy 2/9

From

The Regr. Chief Court. Letter no Roc 1102 dt 29.10.26 states that the rules were framed under section 122 C.P.C and referred to the Rule committee for consideration that they were in favour of the proposal and that no

NOTE—Contn. Sheet

Serial No	
	Objections or suggestions were received from any person after its publication in the gazette and requests sanction to the rule as framed
54	Submitted for orders. The rule as framed by the High Court may perhaps be approved. Please paragraph 52 and 53 above.
	55 The Registrar says in his letter that the Rules were referred to the Rules Committee and that the members of that committee were all in favour of the rules. It is also stated that the rules were published and no objections were received.
	56 The rules may perhaps be sanctioned.
	57 May be sanctioned

Sec'y L.D.)

1st Memo

9202/8/3

Submitted with draft G.O. sanctioning rules under Section 126 C.P.C for approval

Sec'y L.D.)

NOTE—Contn. Sheet

WD 01229—GPB—37,500—1-9-26

App. F. III—2]

General and Revenue Secretariat

No File No. 29 of 1925

Serial No.	
5	To the Registrar Calcutta High Court Govt. Notf. No. 4838 G.R. 3.27. Sanctioning the rules made by the High Court.

NOTE—Contn. Sheet

3700 P 25

39148

Telgm:
"JUSTICE"

CHIEF COURT OF MYSORE,
Public Office Buildings, Cubbon Park,

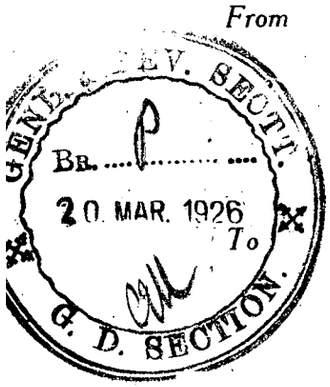
Bangalore 19th March 1926.

R. O. C. No. 1102
-Dis.

Encl

Cb 29-25-1.

From



A. Sreenivasaragavachari, Esq., B.A., B.L.,
Registrar, Chief Court of Mysore.

B. NAGAPPA, Esq., Bar-at-Law.,
Secretary to Government,
Local & Legislative Depts.,
B A N G A L O R E.

Sir,

I am directed to state that at present a large number of appeals in which printing charges have not been deposited by the parties concerned come up before a Bench of the Chief Court for orders and in most cases where sufficient cause is shown for the delay, the time for doing the necessary act is extended. A certain amount of time is taken up by the court in disposing of such cases and it is considered that the power of extending the time for good and sufficient reason is delegated to the Registrar (which includes the Deputy Registrar) the time that is how spent by the court in such cases may be utilized for hearing cases of a more contested nature. It is expected that parties making default will, in a large number of cases, comply with the directions of the Registrar if time is extended by him and such cases need not at all come up before the Bench for orders. If however the parties do not comply with the directions final orders such as dismissal etc., will not be passed by the Registrar himself but only by the Bench before which it will be brought up for orders.

In Madras the power of extension of time for doing necessary acts to make appeals etc., ready for hearing has been delegated to the Registrar.

I am therefore to request that the Government may be pleased to sanction the accompanying addendum to the Chief Court Rules.

I have the honour to be,

Sir,

Your most obedient servant,

Sheemisadagarachi 19/3/26

R E G I S T R A R.

TKV.

2683

IN THE CHIEF COURT OF MYSORE AT BANGALORE.

Civil Side.

Addendum et Corrigendum dated .....1926, to the Rules, dated the 25th September 1905, issued for the purpose of regulating the practice of the Chief Court (Printed at pages 1 to 10 of General Rules and Orders - Civil Vol. 1).

The Chief Court directs (1) that the following be added as clause (9) of Rule 11:--

"To extend the time for a period or periods not exceeding six weeks in all for payment of printing or typing charges or process fees or for any similar act necessary to make appeals, petitions etc., ready for hearing."

and (2) that the following be substituted for rule 20:--

"When any default is made in the payment of printing or typing charges, or process fee or in respect of any similar act necessary to make appeals, petitions etc., ready for hearing, after any period or periods of extension of time granted by the Registrar or Deputy Registrar, the case shall be posted for the orders of the Court."

M Srinivasaiyangar
for REGISTRAR.

MRN.

4

To

The Registrar,

Chief Court. Bangalore.

Sir,

With reference to your letter No. AOC.1102 dated 19-3-1926, forwarding for the sanction of Government addendum et corrigendum to the Rules dated 25-9-1905 issued for the purpose of regulating the practice of the Chief Court, delegating to the Registrar of the Chief Court, the power to grant extensions of time for payment of printing or typing charges or process fees or for any similar act to make appeals, etc. ready for hearing, I am -- directed to request you to indicate the provision of law under which they have been framed.

2. I am also to observe that Order 48 R (2) read with Order 41 R.18 C.P.C. would seem to show that the power to extend time for paying process fees is a judicial one to be delegated by a rule made under Section 122 et seq C.P.C. The opinion of the Chief Court on this aspect may be indicated. Further, the expression "any similar act necessary to make appeals and petitions, etc. ready for hearing" seems too general and whether the acts referred to or most of them cannot specifically be mentioned, may also be considered.

I have, etc.,

Secretary, L.& L.Deptts.

KNN

706

11145

1090/P/26

Telgm:
"JUSTICE"

CHIEF COURT OF MYSORE,
Public Office Buildings, Cubbon Park,

Bangalore....26.th...August..*192* 6 .

R. O. C. No. 1102
Dis. 25-26

CS 219-25-3

From

A. Sreenivasaragavachari, Esq., B.A., B.L.,
Registrar, Chief Court of Mysore.

B. Nagappa, Esq., Bar-at-law.,
Secretary to Government,
Local and Legislative Departments.
BANGALORE.

Sir,

I am directed to acknowledge the receipt of your letter No. P 669/cts 219-25-2 dated the 9th August 1926, requesting the opinion of the Chief Court as to the correct provision of law under which the proposed addendum et corrigendum to the Rules issued for the purpose of regulating the practice of the Chief Court, delegating to the Registrar of the Chief Court the power to grant extensions of time for payment of printing or typying charges or process fees, could be framed and in reply to state that the Chief Court considers that the rule in question is one which it is better to be framed under Sections 122 and 128 Civil Procedure Code and that necessary action is being taken for its being circulated and published in accordance with Section 122 et seq, Civil Procedure Code.

I am to add that a further reference will be made to Government. on the subject. in due course.

I have the honour to be,

Sir,

Your most obedient servant.

For Registrar.

KVN/-

1952
P 326

20168

Telgm:
"JUSTICE

CHIEF COURT OF MYSORE,
Public Office Buildings, Cubbon Park,

Bangalore 29th October 1926.

R. O. C. No. 1102
Dis. 25-26

Cp 219-25-4

From

A. Sreenivasaragavachari, Esq., B.A., B.L.,
Registrar, Chief Court of Mysore.

B. NAGAPPA, Esq., Bar-at-Law.,
Secretary to Government,
Local & Legislative
Departments,
BANGALORE.

Sir,

I am directed to invite reference to my letter No.R.O.C. 1102/25-26 dated 26th August 1926 and to your letter No.P.669. Cts. 219-25-2 dated 9th August 1926 in the matter of delegating to the Registrar of the Chief Court the power to grant extensions of time for payment of printing or typing charges or process fees or for any similar act to make appeals etc., ready for hearing.

In reply I am to state that under Section 128(i) of the Civil Procedure Code judicial, quasi-judicial and non-judicial duties can be delegated to the Registrar or any other official of the Court. The rule was framed in virtue of the power under Section 122 Civil Procedure Code and referred to the Rule Committee for consideration. The members of the Rule Committee were all in favour of the proposal and no objection or suggestion has been received from any person with respect to the draft rule, after its publication in the Gazette. In these circumstances, I am to request the favour of sanction of Government for the same.

With

With reference to the observations contained in the last part of para 2 of your letter whether the expression "any similar act necessary to make appeals and petitions etc., ready for hearing" seems too general and whether the acts referred to or most of - them cannot be specifically mentioned, I am to state that in the draft rule payment of printing or typing charges or process fees are specifically mentioned and that it will be difficult to enlarge these further or to specify each and every act that is necessary to - make ready an appeal or petition for hearing.

I am to suggest that the draft rule may be left as it is. I am to add that in any case the Registrar will not have the power to pass the final orders in cases of default and his power extends only to sending up the records to the Court for orders and therefore there will be no harm in the powers being mentioned generally instead of specifically.

I have the honour to be,

Sir,

Your most obedient servant,

Theerinsa Rajamachari

REGISTRAR. 29/10/26

TKV/2.

G.R.S. VI-G-34]

SUBJECT.....

.....

.....

Diary No. of letter replied to.....

General and Revenue Secretariat

( )

, *the* 192

Date of issue.... 19/8/27

Signed by.....

May this be

i Printed ?

ii treated as a standing order ?

iii published in the Gazette, English Part ?

iv translated ?

v placed at the disposal of the press ?

vi published in the Gazette, Kannada Part ?

Section 4

File No. 29-25

Serial No. 5

Proceedings of the Government of His Highness the Maharaja of Mysore

Read— Letter R.O.C. no. 1102/25-26 dated 19th March 1926 from the Registrar Chief Court, stating that a large number of appeals in which printing charges have not been deposited, come up before a Bench and take up much of its time and that the power of ordering the time may be delegated to the Registrar and forwarding for sanction the following Addendum & Corrigendum to the Rules dated 25th Sept 1905 regulating the practice of the Chief Court.

~~Order Thereon— No~~

2. Further correspondence ending with— letter no. R.O.C 1102/25-26 dated 29th October 26 from the Registrar Chief Court on the same subject.

that the in granting of extension in such cases

9

4838(L)

Under section 126 C.P.C, the rules ~~proposed~~ made by the Chief Court are sanctioned.
Order thereon :- ~~The additional rules~~
~~Corrigenda are recommended to be made~~
Sanctioned.

25/12/23. L. L. Secy -

To

The Registrar, Chief Court,

RM 11/2

List of enclosures.

Copied by

Examined by

WD'1885—GPB—1,000,00--21-12-21